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**An Bille Cróinéirí (Leasú), 2018**  
**Coroners (Amendment) Bill 2018**

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*Mar a ritheadh ag Dáil Éireann*

*As passed by Dáil Éireann*

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## SCHEDULE

### DEATHS REPORTABLE TO CORONER

## ACTS REFERRED TO

Child Care Act 1991 (No. 17)

Children Act 2001 (No. 24)

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)

Civil Registration Act 2004 (No. 3)

Coroners Act 1962 (No. 9)

Coroners Acts 1962 to 2013

Criminal Law (Insanity) Act 2006 (No. 11)

Defence Act 1954 (No. 18)

Defence Acts 1954 to 2015

Garda Síochána Act 2005 (No. 20)

Medical Practitioners Act 2007 (No. 25)

Mental Health Act 2001 (No. 25)

Prisons Act 2007 (No. 10)





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**AN BILLE CRÓINÉIRÍ (LEASÚ), 2018  
CORONERS (AMENDMENT) BILL 2018**

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# Bill

*entitled*

An Act to amend the Coroners Act 1962 and to provide for related matters. 5

**Be it enacted by the Oireachtas as follows:**

## Definition

1. In this Act “Principal Act” means the Coroners Act 1962.

## Amendment of section 2 of Principal Act

2. Section 2 of the Principal Act is amended— 10

- (a) in the definition of “coroner”, by the substitution of “except in sections 6, 6A, 7, 8, 11, 11A and 16” for “except in sections 6, 7, 8, 10, 11, 16 and 59”,
- (b) by the substitution of the following definition for the definition of “registered medical practitioner”:

“ ‘registered medical practitioner’ means a person who is a registered medical practitioner within the meaning of section 2 of the Medical Practitioners Act 2007;”, 15

and

- (c) by the insertion of the following definitions:

“ ‘Act of 2004’ means the Civil Registration Act 2004; 20

‘body’, in relation to a deceased person, means the body or a part of the body of the person and includes the cremated remains of the person;

‘child in care’ means a child who was in the care of the Child and Family Agency under section 4 or Part III, IV or IVA of the Child Care Act 1991;

‘designated officer of the Ombudsman Commission’ means— 25

- (a) an officer of the Ombudsman Commission, or

- (b) a person engaged by the Ombudsman Commission under section 74 of the Garda Síochána Act 2005,

who is designated by the Ombudsman Commission under section 73 of that Act for the purpose of performing functions under Part 4 of that Act 30

relating to a relevant Ombudsman Commission investigation;

‘direct maternal death’ means the death of a woman resulting from obstetric complications of the pregnant state whether arising during pregnancy, labour or puerperium and whether from obstetric interventions, omissions, or incorrect treatment or from a chain of events resulting from any of them; 5

‘disposal’, in relation to the body of a deceased person, means lawful disposal, either on land or at sea, by burial, cremation, scattering of the ashes of the remains of the body or other appropriate means;

‘document’ means— 10

(a) a book, record or other written or printed material,

(b) a photograph,

(c) any information stored, maintained or preserved by means of any mechanical or electronic device, whether or not stored, maintained or preserved in legible form, and 15

(d) any audio or video recording;

‘enactment’ means a statute or an instrument made under a power conferred by statute;

‘end of pregnancy’ means the end of pregnancy by giving birth, by miscarriage or by intervention or in any other circumstances; 20

‘family member’, in relation to a deceased person, means—

(a) a parent, grandparent, child, brother, sister, nephew, niece, uncle or aunt, whether of the whole blood, of the half blood or by affinity, of the person,

(b) a spouse, a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or a cohabiting partner of the person, 25

(c) any other person who is ordinarily a member of the person’s household, or

(d) any child who has been placed in foster care with the person or any person referred to in paragraphs (a) to (c), 30

and includes a reference to any such member of the person’s family who is adopted;

‘findings’, in relation to an inquest, shall be construed in accordance with section 18A(1); 35

‘indirect maternal death’ means the death of a woman resulting from a pre-existing disease, or a disease that developed during pregnancy, and which was not the result of direct obstetric causes, but which was aggravated by the physiological effects of pregnancy;

‘infant death’ means the death of a live born child occurring immediately 40



after birth or within 365 days of birth;

‘late maternal death’ means the death of a woman occurring more than 42 days and less than 365 days after the end of pregnancy from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes and, without prejudice to the generality of the foregoing, includes a direct maternal death or an indirect maternal death occurring during that period; 5

‘maternal death’ means the death of a woman while pregnant, or within 42 days of the end of pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes and, without prejudice to the generality of the foregoing, includes a direct maternal death or an indirect maternal death occurring during that period; 10

‘Ombudsman Commission’ means the Garda Síochána Ombudsman Commission; 15

‘post-mortem examination’ includes an examination of marks or injuries on a body, a full three cavity examination, and any ancillary examination by way of analysis, test or otherwise of the body or of material (whether of tissue, organs, biological fluids or other parts or contents of the body or of any other substance or thing relevant to such examination) carried out by an appropriately qualified registered medical practitioner or under his or her direction; 20

‘pregnancy’ includes an ectopic pregnancy;

‘prison’ has the meaning it has in section 2 of the Prisons Act 2007;

‘relevant Ombudsman Commission investigation’ means an investigation of a complaint or matter by the Ombudsman Commission under Part 4 of the Garda Síochána Act 2005 concerning the death of the person in relation to whose death a coroner is performing functions under this Act; 25

‘reportable death’ shall be construed in accordance with section 16A;

‘service custody’ means the holding under arrest or in confinement of a person by the Defence Forces under the Defence Acts 1954 to 2015 and any Act that is to be construed as one with those Acts, including confinement in a military prison, or a detention barrack, within the meaning of those Acts; 30

‘State custody or detention’ means being— 35

(a) in the custody of the Garda Síochána,

(b) in custody in a prison,

(c) in service custody,

(d) involuntarily detained under Part 2 of the Mental Health Act 2001 in an approved centre within the meaning of section 2 of that Act, 40

(e) detained in a designated centre within the meaning of section 3 of the Criminal Law (Insanity) Act 2006 or being a person to whom section 20 of that Act refers, or

(f) remanded to a remand centre within the meaning of section 3 of the Children Act 2001 or being detained in a children detention school within the meaning of that section; 5

‘statutory body’ means a body established by or under statute;

‘stillborn child’ means a child of not less than 24 weeks’ gestation, or of birth weight of not less than 500 grammes, who is delivered without signs of life.”. 10

### **Application of Act to stillbirths**

3. The Principal Act is amended by the insertion of the following section after section 2:

“2A. (1) This Act, other than sections 17, 18, 33A and 40, shall, where the context so requires, apply to a stillborn child in the same manner as it applies to a deceased person subject to the modification that the provisions in subsections (2) to (5) shall apply to a stillborn child instead of sections 17, 18 and 33A, and any other necessary modifications. 15

(2) Where a coroner is informed that the body of a stillborn child is lying within his or her district and that a medical certificate stating that the cause of death due to a natural cause or causes is not procurable, he or she may inquire into the circumstances of the death of the stillborn child and direct that a post-mortem examination of the body of the stillborn child be made under this Act and, if he or she is unable to ascertain the cause of death, may, if he or she so thinks proper, hold an inquest in relation to the death. 20 25

(3) A coroner may, for the purposes of performing his or her functions under subsection (2), have regard to any of the following circumstances in so far as they applied, or may have applied, to the mother of the stillborn child concerned and the likelihood that they may have caused or contributed to the death of the stillborn child: 30

(a) violence affecting the mother of the stillborn child at the time of the death, or immediately before the death, of the stillborn child;

(b) the mother of the stillborn child was in State custody or detention at the time of the death, or immediately before the death, of the stillborn child; 35

(c) the mother of the stillborn child was involved in an accident at work or was affected by an industrial or occupational injury or disease or industrial poisoning at the time of the death, or immediately before the death, of the stillborn child; 40

(d) the death of the mother occurred unexpectedly and from unknown causes or in an unexplained manner;

- (e) the death of the mother was a maternal death or a late maternal death;
- (f) the death of the mother occurred in circumstances which, under provisions in that behalf in any other enactment, require that an inquest in relation to her death should be held. 5
- (4) When deciding under subsection (2) whether to hold an inquest in relation to the death of a stillborn child, a coroner shall—
  - (a) have regard to the matters referred to in subsection (5), and
  - (b) if it is practicable to do so, consult with a family member of the stillborn child. 10
- (5) The matters to which a coroner shall have regard for the purposes of subsection (4) include the following:
  - (a) whether the death of the stillborn child concerned has been reported to the coroner in accordance with section 16A;
  - (b) whether, upon inquiry by the coroner into the death, sufficient information in respect of the death of the stillborn child concerned has been provided to the coroner; 15
  - (c) whether a post-mortem examination of the body of the stillborn child concerned has been made under this Act and the report of that examination; 20
  - (d) the views (if any) of a family member of the stillborn child concerned furnished to the coroner in writing as to whether the death was a natural one.”.

#### **Amendment of section 6A of Principal Act**

- 4. Section 6A of the Principal Act is amended by— 25
  - (a) the substitution of the following subsections for subsections (4) and (5):
    - “(4) The Minister shall make administrative and financial arrangements in respect of the coroner’s district of Dublin and that obligation shall be deemed to have come into operation on 1 January 2018 and sections 8 and 9 shall be deemed to have ceased to apply to that district with effect from that date. 30
    - (5) A person holding the office of coroner or deputy coroner in the coroner’s district of Dublin shall, in accordance with arrangements under subsection (4), be paid such salary as the Minister may, with the consent of the Minister for Public Expenditure and Reform, from time to time determine. 35
    - (5A) The persons who immediately before the coming into operation of *section 4(a) of the Coroners (Amendment) Act 2019* held the offices of coroner and deputy coroner in the coroner’s district of Dublin shall, following such coming into operation, continue to hold such respective offices.”. 40

(b) the insertion of the following subsections after subsection (6):

“(6A) A coroner for the coroner’s district of Dublin shall be appointed by the Minister.

(6B) The Minister shall, before appointing a person to be a coroner for the coroner’s district of Dublin, satisfy himself or herself that the person possesses the requisite knowledge and ability for the proper discharge of the duties of that office.”,

and

(c) the addition of the following subsection after subsection (8):

“(9) During the illness or absence of the person designated under subsection (7) to be the senior coroner of the coroner’s district of Dublin, the Minister may designate another coroner appointed in respect of that district to perform the functions of the senior coroner of that district for any period during such illness or absence.”.

#### **Amendment of section 8 of Principal Act**

**5.** Section 8 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsections (2) and (2A):

“(2) Subject to sections 6A and 7, the coroner for a coroner’s district shall be appointed by the local authority in whose area the district is situate.”,

and

(b) in subsection (3), by the substitution of “Subject to sections 6A and 7, the office of coroner shall be an office” for “The office of coroner shall be an office”.

#### **Amendment of section 13 of Principal Act**

**6.** Section 13 of the Principal Act is amended—

(a) in subsection (1), by the insertion of “, or by the Minister in the case of a coroner for the coroner’s district of Dublin,” after “a person approved of for the purpose by the local authority by which the coroner was appointed”,

(b) by the substitution of the following subsection for subsection (1A):

“(1A) A person shall not be appointed as a deputy coroner, without the prior approval of the Minister, for a coroner district other than the coroner’s district of Dublin (in which latter case the approval of the Minister is given under subsection (1)).”.

(c) in subsection (4)(b), by the substitution of “and, except in the case of the coroner’s district of Dublin, shall be paid by the local authority” for “and shall be paid by the local authority”, and

- (d) in subsection (5)(a), by the substitution of “for the purposes of this Act except sections 6A(5) (insofar as it relates to the office of coroner) and 9” for “for the purposes of this Act except section 9”.

### **Amendment of Principal Act – reporting of deaths**

7. The Principal Act is amended by the insertion of the following Part after Part II: 5

#### **“Part IIA**

#### **REPORTING OF DEATHS**

#### **Reportable deaths**

- 16A.** (1) The following shall be a reportable death for the purposes of this Act (in this Act referred to as a ‘reportable death’): 10
- (a) the death of a person which occurred, or may have occurred, either directly or indirectly—
    - (i) in a violent or unnatural manner or by unfair means,
    - (ii) by misadventure,
    - (iii) unexpectedly and from unknown causes or in an unexplained manner, 15
    - (iv) as a result of negligence, misconduct or malpractice on the part of others, or
    - (v) in such circumstances as may, in the public interest, require investigation; 20
  - (b) the death of a person which occurred, or may have occurred, either directly or indirectly, from any cause other than natural illness or disease for which the person had been seen and treated by a registered medical practitioner within one month before his or her death; 25
  - (c) subject to paragraphs (a) and (b), the death of a person which occurred, or may have occurred, at a place or in circumstances which, under provisions in that behalf in any other enactment, require that an inquest should be held.
- (2) Without prejudice to the generality of subsection (1), the death of a person of a kind specified in the Second Schedule shall be a reportable death. 30
- (3) The Minister may, following consultation with such persons or bodies as he or she considers appropriate, by order vary (whether by amendment, addition or deletion) the reportable deaths specified in the Second Schedule. 35
- (4) Where it is proposed to make an order under this section, a draft of the order shall be laid before each House of the Oireachtas and the order

shall not be made unless a resolution approving of the draft has been passed by each such House.

**Persons obliged to report death to coroner**

- 16B.** (1) A person specified in subsection (3) or (4) shall, as soon as practicable after becoming aware of a reportable death and unless he or she has reasonable grounds for believing that the death has already been reported to the coroner by another person specified in whichever of those subsections is appropriate, report, or cause to be reported, the death to the coroner for the district in which the body is lying. 5
- (2) Any person who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a class B fine. 10
- (3) The following persons are required to report a death under subsection (1) to the coroner concerned:
- (a) any medical practitioner, nurse or midwife who had responsibility for, or involvement in, the treatment or care of the deceased person in the period immediately before his or her death or who was present at his or her death; 15
  - (b) any registered medical practitioner who examines the body of the deceased person after death; 20
  - (c) any paramedic or advanced paramedic, registered with the Pre-Hospital Emergency Care Council under the Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000), who had responsibility for, or involvement in, the care of the deceased person in the period immediately before his or her death or who was present at his or her death; 25
  - (d) the funeral undertaker responsible for the disposal of the body of the deceased person;
  - (e) the person in charge of a mortuary in which the body of the deceased person is lying or comes to lie; 30
  - (f) an occupier of a house or other dwelling, including a mobile dwelling, in which the deceased person was residing at the time of his or her death;
  - (g) the person in charge of any public or private institution or premises, or a part of such institution or premises, in which the deceased person was residing or receiving treatment or care at the time of his or her death; 35
  - (h) a person who had care of the deceased person immediately before his or her death;
  - (i) where the deceased person was in State custody or detention immediately before his or her death, a person who, pursuant to an enactment or otherwise, had responsibility for the deceased person; 40

- (j) the person in charge of an aircraft, ship or other vessel landing or arriving in the State on which the deceased person was travelling at the time of his or her death;
- (k) a registrar of deaths within the meaning of the Act of 2004 to whom particulars of the death of the deceased person are given for the purposes of the performance by the registrar of deaths of his or her functions under that Act. 5
- (4) If the reportable death concerned is that of a stillborn child or a death intrapartum, any medical practitioner, nurse or midwife who had responsibility for, or involvement in, the treatment or care of the woman concerned in the period immediately before or after the delivery of the stillborn child, or who was present at the delivery, is required to report, or cause to be reported, the death under subsection (1) to the coroner concerned. 10
- (5) The obligation imposed on a person by subsection (1) shall be deemed to be discharged if he or she reports the death as soon as practicable after becoming aware of it to a member of the Garda Síochána. 15
- (6) It shall be the duty of a member of the Garda Síochána, on becoming aware of a reportable death (whether or not reported to him or her under subsection (5)), to report the death as soon as practicable to the coroner for the district in which the body is lying. 20
- (7) Where the person reporting a death under subsection (1) is a registered medical practitioner who—
  - (a) provided treatment to the deceased person prior to his or her death,
  - (b) is required to report the death under that subsection in circumstances to which subsection (4) applies, or 25
  - (c) examined the body of the deceased person after death,

the registered medical practitioner shall, at the same time as reporting the death or as soon as practicable thereafter, inform the coroner concerned as to whether he or she can sign and give a medical certificate stating to the best of his or her knowledge and belief the cause of death for the purposes of the registration of the death under the Act of 2004. 30
- (8) Any person who reports a death pursuant to this section shall give to the coroner (or, as the case may be, a member of the Garda Síochána) all such information available to him or her as may assist the coroner in the performance of his or her functions under this Act.”. 35

#### **General duty to hold inquest**

8. (1) Section 17 of the Principal Act is amended by—

- (a) the substitution of “unexpectedly and from unknown causes” for “suddenly and from unknown causes”, 40

- (b) the designation of that section (as amended by *paragraph (a)*) as subsection (1) of that section, and
- (c) the insertion of the following subsection after subsection (1):
  - “(2) Without prejudice to the generality of subsection (1), it shall be the duty of a coroner to hold an inquest in relation to the death of a person in the following cases:
    - (a) the deceased person was, at the time of his or her death or immediately before his or her death, in State custody or detention;
    - (b) the death of the person is a maternal death or a late maternal death.”.
- (2) The amendments of section 17 of the Principal Act effected by *subsection (1)* shall apply to the duty of a coroner to hold an inquest in relation to the death of a person that occurred before the commencement of this section only if, upon that commencement, the inquiries of the coroner into the circumstances of the death have not been completed and he or she has not decided whether to hold an inquest in relation to the death.

#### **Amendment of section 18(1) of Principal Act**

- 9. Section 18(1) of the Principal Act is amended by the insertion of “or such a certificate is not, in the opinion of the coroner, completed in a satisfactory manner to facilitate the registration of the death in accordance with the Act of 2004” after “that a medical certificate of the cause of death is not procurable”.

#### **Purpose of inquest**

- 10. The Principal Act is amended by the insertion of the following section after section 18:

- “18A. (1) The purpose of an inquest shall be to establish—
  - (a) the identity of the person in relation to whose death the inquest is being held,
  - (b) how, when and where the death occurred, and
  - (c) to the extent that the coroner holding the inquest considers it necessary, the circumstances in which the death occurred,
 and to make findings in respect of those matters (in this Act referred to as ‘findings’) and return a verdict.
- (2) If, at an inquest, the coroner or, where he or she is sitting with a jury, the jury is unable to make findings in respect of any of the matters specified in paragraphs (a) to (c) of subsection (1), the coroner may adjourn the inquest for such period as he or she thinks proper.
- (3) If, on the resumption of an inquest adjourned under subsection (2), the coroner or, as the case may be, the jury remains unable to make findings in respect of any matter specified in paragraphs (a) to (c) of subsection (1), the coroner shall record such findings as are made



under those paragraphs and the verdict returned and shall close the inquest.”.

### Notice of inquest

11. The Principal Act is amended by the insertion of the following section after section 18A (inserted by *section 10*):

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“18B.(1) A coroner shall, whether by post or such other means as he or she considers appropriate, arrange for notice of the date, time and place of the holding of an inquest in relation to the death of a person to be given to the following persons not less than 14 days before that date:

- (a) a family member of the deceased person;
- (b) a person required to attend at the inquest as a witness;
- (c) any other person who, in the opinion of the coroner, ought to receive such notice.

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(2) Subsection (1) shall not prevent a coroner from holding an inquest where less than 14 days’ notice of it is given under that subsection if the coroner is satisfied that to do so does not unfairly prejudice the interests of a family member of the deceased person concerned and that it is appropriate to hold the inquest on an earlier date—

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- (a) due to the circumstances of the death of the deceased person, to facilitate the attendance of witnesses whose evidence would, in the opinion of the coroner, be of assistance at the inquest, or
- (b) where the body of the deceased person is being repatriated to a place outside the State, to facilitate the repatriation of the body.”.

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### Amendment of section 20 of Principal Act

12. Section 20 of the Principal Act is amended—

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(a) in subsection (1), by the substitution of “any member of the Garda Síochána not below the rank of inspector, or a designated officer of the Ombudsman Commission where there is a relevant Ombudsman Commission investigation concerning the death of the person in relation to whose death an inquest is to be held, may request the Minister to direct any other coroner to hold the inquest and the Minister may, if he or she so thinks proper, so direct another coroner” for “any member of the Garda Síochána not below the rank of inspector may request the coroner for an adjoining district to hold the inquest”, and

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(b) in subsection (2), by—

- (i) the insertion of “, or the Minister if that coroner is a coroner for the coroner’s district of Dublin,” after “the local authority liable to pay the salary of the coroner who would ordinarily hold the inquest”, and
- (ii) the substitution of “such sum to cover his or her travelling and other expenses as shall be agreed upon between him or her and the local authority, or the Minister, in the case of a coroner for the coroner’s district of Dublin”

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for “such sum to cover his travelling and other expenses as shall be agreed upon between him and the local authority or, in default of agreement, as shall be fixed by the Minister”.

#### **Amendment of section 24 of Principal Act**

- 13.** Section 24 of the Principal Act is amended by the substitution of the following subsection for subsection (2): 5

“(2) Whenever an inquest is held by virtue of this section by a coroner other than a coroner who would ordinarily hold the inquest—

(a) the Minister, if the coroner who would ordinarily hold the inquest is a coroner for the coroner’s district of Dublin, or 10

(b) the local authority liable to pay the salary of the coroner who would ordinarily hold the inquest,

shall pay the coroner who holds the inquest such fee as may be prescribed together with such sum to cover his or her travelling and other expenses as shall be agreed upon— 15

(i) between the coroner who holds the inquest and the Minister, in the case of an inquest that would ordinarily be held by a coroner for the coroner’s district of Dublin, or

(ii) in all other cases, between the coroner who holds the inquest and the local authority referred to in paragraph (b) or, in default of agreement, as shall be fixed by the Minister.”. 20

#### **Identification of body of deceased person**

- 14.** The Principal Act is amended by the substitution of the following section for section 27:

“**27.** (1) For the purpose of establishing the identity of a deceased person, a coroner may request a member of the Garda Síochána, a designated officer of the Ombudsman Commission where there is a relevant Ombudsman Commission investigation concerning the death of that person, a family member of the deceased person or, if the circumstances of the death so require, a suitably qualified person who has expertise regarding the identification of human remains— 25 30

(a) to view the body of the deceased person, or

(b) if such a viewing would not assist with the identification of the deceased person or in circumstances to which section 22 or 23 relates, to examine and consider other evidence of identity of the deceased person, 35

and the person so requested shall give evidence of identity of the deceased person to the coroner.

(2) Where evidence of identity of a deceased person is given to a coroner under subsection (1) and that evidence is subsequently presented by the coroner at an inquest in relation to the death of that person, it shall 40

be evidence of the identity of the deceased person without further proof, unless the contrary is shown.

- (3) If evidence of identity of a deceased person is disputed at an inquest in relation to the death of that person, the member of the Garda Síochána or other person who gave the evidence to the coroner under subsection (1) shall attend the inquest regarding that evidence. 5

- (4) Where it is not possible to identify the deceased person, the absence of such identification shall not prevent the coroner from inquiring into the circumstances of the death of that person or from holding an inquest in relation to the death.”. 10

#### **Amendment of section 30 of Principal Act**

15. Section 30 of the Principal Act is amended by the deletion of “and accordingly every inquest shall be confined to ascertaining the identity of the person in relation to whose death the inquest is being held and how, when, and where the death occurred”.

#### **Amendment of section 31 of Principal Act**

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16. Section 31 of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “, nor any findings made at an inquest,” after “any rider to the verdict at an inquest”, and
- (b) in subsection (2), by the substitution of “recommendations of a general character that are designed to prevent further fatalities or are considered necessary or desirable in the interests of public health or safety” for “recommendations of a general character designed to prevent further fatalities”. 20

#### **Amendment of section 32 of Principal Act**

17. Section 32 of the Principal Act is amended by the substitution of “the findings made and the verdict returned at an inquest” for “the verdict returned at an inquest”. 25

#### **Post-mortem examinations and related matters**

18. The Principal Act is amended by the substitution of the following sections for section 33:

##### **“Post-mortem examinations**

33. (1) Subject to section 33A(3), a coroner may, for the purposes of inquiring into the death of a person, direct a registered medical practitioner to make a post-mortem examination of the body of the deceased person. 30
- (2) Where a registered medical practitioner makes a post-mortem examination of the body of a deceased person under this section, section 33A or 33C, he or she shall do so under the direction of the coroner. 35
- (3) Where a coroner has directed a registered medical practitioner under this section, section 33A or 33C to make a post-mortem examination of the body of a deceased person, he or she shall ensure, in so far as

practicable, that a family member of the deceased person is informed of the fact and is informed that material may be removed from the body and retained for the purposes of a post-mortem examination or an inquest in relation to the death of the person.

- (4) Where, in the opinion of the coroner, the report of a post-mortem examination furnished to him or her under section 33E shows that an inquest in relation to the death is not necessary, it shall not be obligatory upon him or her to hold an inquest. 5
- (5) Nothing in this section shall authorise a coroner to dispense with holding an inquest in relation to the death of a person in circumstances to which section 17 applies. 10

### **Duty to direct post-mortem examination**

- 33A.** (1) It shall be the duty of a coroner to direct that a post-mortem examination of the body of a deceased person, whose death has been reported to him or her under this Act, be made in the following cases: 15
- (a) the death of the person may, in the opinion of the coroner, have occurred in a violent or unnatural manner, or in suspicious circumstances;
  - (b) the death of the person may, in the opinion of the coroner, have occurred unexpectedly and from unknown causes or in an unexplained manner; 20
  - (c) the deceased person was, at the time of his or her death or immediately before his or her death, in State custody or detention;
  - (d) the death of the person was a maternal death or a late maternal death; 25
  - (e) the death of the person may, in the opinion of the coroner, have occurred in circumstances which, under provisions in that behalf in any other enactment, require that an inquest should be held;
  - (f) the death of the person occurred as a result of an accident at work or was due to an industrial or occupational injury or disease or industrial poisoning. 30
- (2) It shall be the duty of a coroner to exercise his or her power to direct a post-mortem examination in every case in which—
- (a) a member of the Garda Síochána not below the rank of inspector,
  - (b) a member of the Defence Forces not below the rank of commandant, 35
  - (c) a duly authorised officer of a statutory body who is empowered under another enactment to investigate accidents, incidents or diseases resulting in death, or
  - (d) a designated officer of the Ombudsman Commission, 40

requests him or her so to do, and states the reasons for such request in writing.

- (3) Upon receipt of a request under paragraph (a) or (d) of subsection (2) to direct a post-mortem examination in the case of a death in suspicious circumstances, a coroner shall direct a registered medical practitioner appointed by or on behalf of the Minister to make a post-mortem examination of the body of the deceased person. 5

**Provisions relating to post-mortem examinations directed by coroner**

**33B.** (1) A post-mortem examination of the body of a deceased person directed by a coroner under section 33, 33A or 33C shall be made by a registered medical practitioner and he or she may do so— 10

(a) with the assistance of such other registered medical practitioners, or

(b) such technical or clinical assistance as may be required for the examination, 15

or both, as the first-mentioned registered medical practitioner considers appropriate for the examination.

- (2) A post-mortem examination of the body of a deceased person under section 33, 33A or 33C shall not be made by a registered medical practitioner who had attended the deceased person within the period of 28 days before his or her death, nor shall a registered medical practitioner assist in making such an examination if he or she attended the deceased person within that period. 20

- (3) Subsection (2) shall not apply to a registered medical practitioner who is a pathologist on the staff of, or associated with, a hospital save where the coroner considers that the conduct of such practitioner in relation to his or her attendance on the deceased person is likely to be called in question at an inquest in relation to the death of that person. 25

**Further post-mortem examination**

**33C.** Where a post-mortem examination has been directed by a coroner under section 33 or 33A, the coroner may direct the same registered medical practitioner, or another registered medical practitioner, to make a further post-mortem examination of the body of the deceased person concerned if the coroner is of opinion that— 30

(a) a further post-mortem examination is necessary as further information relating to the death, or the circumstances of the death, becomes known after the first post-mortem examination was made, or 35

(b) the first post-mortem examination was not made properly.

**Medical records of deceased person for purposes of post-mortem examination**

- 33D.** (1) Where, under section 33, 33A or 33C, a coroner directs that a post-mortem examination of the body of a deceased person be made, the coroner may direct— 5
- (a) a person in charge of a hospital, or other health institution, in which the deceased person received treatment immediately before his or her death, 10
  - (b) a medical practitioner, nurse or midwife who has possession or control of medical records relating to the deceased, or 10
  - (c) a paramedic or advanced paramedic registered with the Pre-Hospital Emergency Care Council under the Pre-Hospital Emergency Care Council (Establishment) Order 2000 (S.I. No. 109 of 2000) who has possession or control of medical records relating to the deceased, 15
- to give to the registered medical practitioner making the examination, within such period as may be specified in the direction, such medical records relating to the deceased person as are, in the opinion of the coroner, necessary to enable a proper examination of the body to be made. 20
- (2) Subject to subsection (3), a person to whom a direction is given by a coroner under subsection (1) shall comply with the direction forthwith.
  - (3) A person to whom a direction is given by a coroner under subsection (1) may refuse to comply with the direction in relation to a medical record only if he or she would be entitled, by virtue of section 38(3), as a witness at an inquest to refuse to comply with a direction of the coroner to produce the record at the inquest. 25
  - (4) A direction given by a coroner under subsection (1) shall be given in writing or, if given orally, it shall be confirmed in writing as soon as practicable. 30
  - (5) The validity of a direction given by a coroner under subsection (1) shall not be limited to the coroner's district in respect of which he or she holds the office of coroner.
  - (6) Where a person to whom a direction is given by a coroner under subsection (1) fails or refuses to comply with the direction, other than in circumstances to which subsection (3) applies, the High Court may, on application to it in that behalf by the coroner— 35
    - (a) order the person to comply with the direction immediately or within such period as the Court may determine and specify in the order, and 40
    - (b) make such other order, if any, as it considers necessary to enable the order made under paragraph (a) to have effect and such order as to costs, if any, as it considers just.

- (7) An application under subsection (6) may, if the High Court so directs, be heard otherwise than in public.
- (8) In determining an application under subsection (6), the High Court shall have regard to—
  - (a) the public interest in the medical record concerned being given for the purposes of the post-mortem examination of the body of the deceased person concerned, 5
  - (b) the likely importance of the information contained in the medical record concerned for the purposes of that examination, and
  - (c) the likely impact on the effectiveness of that examination if the medical record concerned is not given, or there is a delay in its being given, for the purposes of that examination. 10
- (9) A registered medical practitioner to whom medical records are given pursuant to a direction of a coroner under subsection (1), or an order of the High Court under subsection (6), shall return those records to the hospital or other health institution or the medical practitioner, nurse, midwife, paramedic or advanced paramedic, as the case may be, from whom they were received, as soon as practicable after the post-mortem examination of the body of the deceased person concerned has been made or, as may be appropriate, an inquest in relation to the death of that person has been held. 15 20
- (10) Rules of court may make provision for the expeditious hearing of applications to the High Court under subsection (6).

#### **Report of post-mortem examination**

- 33E.** (1) Where a post-mortem examination of the body of a deceased person is directed by a coroner under section 33, 33A or 33C, the registered medical practitioner to whom the direction was given shall, as soon as practicable, furnish a report in writing of the examination to the coroner. 25
- (2) A report of a post-mortem examination under subsection (1) shall contain a record of any material, whether tissue, organs, biological fluids or other part of the body of the deceased person concerned, retained for further examination or for the purposes of an inquest in relation to the death of the person. 30
  - (3) In a case where a request for a post-mortem examination is received by a coroner under section 33A(2), the coroner to whom a report of the post-mortem examination is furnished under subsection (1) shall, in accordance with the request, provide a copy of the report to, as may be appropriate— 35
    - (a) a member of the Garda Síochána not below the rank of inspector, 40
    - (b) a member of the Defence Forces not below the rank of commandant,

- (c) a duly authorised officer of a statutory body who is empowered under another enactment to investigate accidents, incidents or diseases resulting in death, or
  - (d) a designated officer of the Ombudsman Commission,
- and the copy of the report shall be so provided not later than the commencement of an inquest in relation to the death of the person concerned or, if an inquest is not held, as soon as practicable after the coroner receives the report. 5
- (4) Subject to subsection (5), a coroner to whom a report of a post-mortem examination is furnished under subsection (1) shall, if so requested by a family member of the deceased person concerned, provide a copy of the report to that family member. 10
  - (5) The coroner shall not provide a copy of the report of a post-mortem examination furnished to him or her under subsection (1) to a family member of the deceased person if the coroner thinks that it is not proper to do so as it may prejudice criminal proceedings in relation to the death of the deceased person that are being considered or have been instituted. 15
  - (6) Nothing in this section shall prevent a registered medical practitioner directed by a coroner under section 33, 33A or 33C to make the post-mortem examination of the body of a deceased person from furnishing a preliminary report of the examination to the coroner before the report referred to in subsection (1) is furnished to him or her.”. 20

#### **Amendment of section 36 of Principal Act**

- 19. Section 36 of the Principal Act is amended by the insertion of “, or, where there is a relevant Ombudsman Commission investigation concerning the death of the person in relation to whose death the inquest is to be held, by a designated officer of the Ombudsman Commission,” after “a member of the Garda Síochána”. 25

#### **Amendment of section 37 of Principal Act**

- 20. Section 37 of the Principal Act is amended— 30
  - (a) in subsection (1), by the insertion of “without reasonable excuse” after “fails”,
  - (b) in subsection (2), by the insertion of “without reasonable excuse” after “fails”, and
  - (c) by the insertion of the following subsections after subsection (2):
    - “(2A) Where a person who, having been duly served with a summons requiring him or her to attend an inquest as a witness, fails without reasonable excuse to attend on the date and at the time and place specified in the summons, the High Court may, on application to it in that behalf by a coroner— 35
      - (a) order the person to comply with the summons, and 40



(b) make such other order (including an order as to costs), if any, as it considers necessary and just to enable the order made under paragraph (a) to have full effect.

(2B) The amendment of this section (other than this subsection) effected by *section 20 of the Coroners (Amendment) Act 2019* shall not apply if the date specified in the summons concerned falls before the coming into operation of that section.”. 5

#### **Power with respect to taking of evidence, etc., at inquest**

**21.** The Principal Act is amended by the substitution of the following section for section 38:

- “**38.** (1) If a coroner considers it necessary for the purposes of the proper conduct of an inquest, the coroner may— 10
- (a) direct the taking of an oath or affirmation by any witness,
  - (b) direct a witness to answer questions,
  - (c) direct the production by any person of any document, article, substance or thing in his or her possession or under his or her power or control, 15
  - (d) inspect, copy and keep for such period as the coroner considers necessary any document, article, substance or thing produced at the inquest, or
  - (e) give any other direction that the coroner considers necessary. 20
- (2) Where a person fails or refuses without reasonable excuse to comply with a direction under subsection (1), the High Court may on application to it in that behalf by a coroner—
- (a) order the person to comply with the direction, and
  - (b) make such other order, if any, as it considers necessary and just to enable the direction to have full effect. 25
- (3) A witness at an inquest shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.
- (4) Any person who gives evidence to an inquest knowing it to be false or misleading shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.”. 30

#### **Taking of evidence from person about to leave State**

**22.** The Principal Act is amended by the insertion of the following section after section 38 (inserted by *section 21*): 35

“**38A.** Whenever a coroner is satisfied that a person who may be summoned to give evidence or to produce a document, article, substance or thing relevant to an inquest is likely to be absent from the State during the conduct of the inquest, he or she may direct that the evidence of that

person be taken or the document, article, substance or thing be produced before him or her, at any time before the inquest, in the same manner as the evidence would be taken or the document, article, substance or thing would be produced at the inquest.”.

#### **Amendment of section 40(1) of Principal Act**

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23. Section 40(1) of the Principal Act is amended by the deletion of paragraph (d).

#### **Amendment of section 43 of Principal Act**

24. Section 43 of the Principal Act is amended by the substitution of “the coroner shall so inform a member of the Garda Síochána or, where there is a relevant Ombudsman Commission investigation concerning the death of the person in relation to whose death the inquest is to be held, a designated officer of the Ombudsman Commission, and the member or designated officer, as the case may be, shall assemble” for “the coroner shall so inform a member of the Garda Síochána and the member shall assemble”.

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#### **Amendment of section 46 of Principal Act**

25. (1) Section 46 of the Principal Act is amended—
- (a) in subsection (3), by the substitution of “a class C fine or imprisonment for a term not exceeding 12 months or both” for “a fine not exceeding ten pounds”, and
  - (b) in subsection (4), by the substitution of “a class C fine or imprisonment for a term not exceeding 12 months or both” for “a fine not exceeding ten pounds”.
- (2) The amendments of section 46 of the Principal Act effected by *subsection (1)* shall apply to an offence under subsection (3) or (4) of that section only if the offence is committed after the commencement of this section.

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#### **Amendment of section 47 of Principal Act**

26. Section 47 of the Principal Act is amended by the insertion of the following subsection after subsection (1):
- “(1A) Where there is a relevant Ombudsman Commission investigation and a coroner is informed by a designated officer of the Ombudsman Commission that, in his or her opinion, the death of the person concerned whose body has been buried in the coroner’s district may have occurred in a violent or unnatural manner, the coroner may request the Minister to order the exhumation of the body by the Ombudsman Commission.”.

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#### **Entry to premises to inspect, copy, take extracts from or seize documents, etc.**

27. The Principal Act is amended by the insertion of the following section after section 49:
- “49A.(1) A coroner may not enter any premises for the purposes of the performance of his or her functions under this Act in relation to the death of any person except—

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- (a) with the consent of the occupier of those premises, or
  - (b) under the authority of a warrant issued under this section.
- (2) If a judge of the District Court is satisfied by information on oath of a coroner that there are reasonable grounds for suspecting that there are in any premises any documents, articles, substances or things required by the coroner for the performance of his or her functions under this Act in relation to the death of any person, the judge may issue a warrant authorising the coroner to enter those premises and to inspect, copy or take extracts from or, if necessary, to seize those documents or to inspect or, if necessary, to seize those articles, substances or things.
- (3) A warrant issued under this section shall be expressed, and shall operate, to authorise the coroner named in the warrant, accompanied by such (if any) members of the Garda Síochána, or designated officers of the Ombudsman Commission where there is a relevant Ombudsman Commission investigation concerning the death of the person in relation to whose death the warrant is issued, as the coroner considers necessary—
- (a) to enter, at any time or times within one week of the date of the issue of the warrant, on production if so requested of the warrant or a copy of it and if necessary by the use of reasonable force, the premises named in the warrant, and
  - (b) to inspect, copy or take extracts from or, if necessary, to seize the documents concerned, or to inspect or, if necessary, to seize the articles, substances or things concerned, in those premises.
- (4) A coroner who, under a warrant issued under this section, seizes any documents, articles, substances or things shall return those documents, articles, substances or things to the person from whom they were seized when they are no longer required for the performance by the coroner of his or her functions under this Act in relation to the death of the person concerned.
- (5) A person who obstructs or attempts to obstruct the coroner, a member of the Garda Síochána or a designated officer of the Ombudsman Commission acting under the authority of a warrant issued under this section shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (6) The power of the District Court to issue a warrant under this section shall be exercisable by a judge of the District Court who is assigned to the district court district in which the premises concerned are situate.”.

#### **Expert advice and assistance for coroners in certain circumstances**

**28.** The Principal Act is amended by the insertion of the following section after section 53:

**“53A.** If a coroner considers that he or she requires the advice or assistance of an expert in respect of a matter for the purposes of his or her inquiry into

a death, he or she may seek and obtain such advice or assistance from a person who has expertise in respect of the matter.”.

### **Supply of forms to coroner**

**29.** The Principal Act is amended by the substitution of the following section for section 54:

- “**54.** For the purposes of discharging his or her duties as a coroner— 5
- (a) the Minister, in the case of a coroner for the coroner’s district of Dublin, and
  - (b) the local authority by whom a coroner was appointed in all other cases,
- shall supply the coroner concerned with such supplies of stationery and of 10  
prescribed forms as shall be reasonably required by him or her for the discharge of those duties.”.

### **Amendment of section 58 of Principal Act**

**30.** Section 58 of the Principal Act is amended—

- (a) in subsection (1), by the insertion of “the Minister, if the matter relates to the 15  
coroner’s district of Dublin or” after “certificate for the payment by”,
- (b) by the substitution of the following subsection for subsection (2):

“(2) Every person to whom a certificate has been issued under this section  
may present the certificate to—

  - (a) the Minister, if the matter relates to the coroner’s district of Dublin, 20  
or
  - (b) the local authority specified in the certificate in any other case,  
and, thereupon, the Minister or the local authority, as the case may be,  
shall pay the sum mentioned in the certificate to the person.”,

and 25
- (c) in subsection (3), by the insertion of “(other than a certificate relating to a matter  
concerning the coroner’s district of Dublin)” after “local authority to be specified  
in a certificate issued under this section”.

### **Amendment of section 60 of Principal Act**

**31.** Section 60 of the Principal Act is amended— 30

- (a) in subsection (5)—
  - (i) in paragraph (b), by the deletion of “within the meaning of section 2 of the  
Prisons Act 2007”,
  - (ii) in paragraph (c), by the deletion of “within the meaning of section 2 of the  
Defence Act 1954”, 35

(iii) in paragraph (f), by the substitution of “remanded in a remand centre” for “in custody in a remand centre”, and

(iv) by the deletion of “or” at the end of paragraph (g) and the insertion of the following paragraph after paragraph (g):

“(ga) the death of the deceased was a maternal death or a late maternal death, or” 5

and

(b) in subsection (7), by the deletion of the definitions of “child in care” and “family member”.

### **Offences by body corporate**

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32. The Principal Act is amended by the insertion of the following section after section 60 (as amended by *section 31*):

“61. Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.” 15

### **Performance of functions by designated officers of Ombudsman Commission under Coroners Act 1962**

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33. The Garda Síochána Act 2005 is amended by the insertion of the following section after section 101:

“101A. The Ombudsman Commission may, in connection with the investigation of a complaint or matter under this Part that concerns the death of a person, direct a designated officer of the Commission— 25

(a) to perform the functions conferred on such an officer by the Coroners Act 1962 in relation to the inquiry by a coroner into the circumstances of the death of the person under that Act, and

(b) to provide to the coroner, at his or her request, such assistance with regard to the holding of an inquest in relation to the death of that person as would be provided by a member of the Garda Síochána in the case of any other inquest under that Act, 30

and a designated officer so directed shall perform those functions and provide such assistance whether or not the investigation under this Part is completed.” 35

### **Amendment of Principal Act – Second Schedule specifying reportable deaths**

34. The Schedule to the Principal Act shall be designated as the First Schedule to that Act and that Act shall be amended by the insertion of the Schedule to this Act as the Second

Schedule to that Act.

### **Repeals**

**35.** The following provisions of the Principal Act are repealed:

- (a) section 6(5);
- (b) section 10; 5
- (c) subsections (3) to (6) of section 18;
- (d) sections 19 and 52.

### **Short title, collective citation and commencement**

**36.** (1) This Act may be cited as the Coroners (Amendment) Act 2019.

- (2) The Coroners Acts 1962 to 2013 and this Act may be cited together as the Coroners 10  
Acts 1962 to 2019.
- (3) This Act shall come into operation on such day or days as the Minister for Justice and  
Equality may by order or orders appoint either generally or with reference to any  
particular purpose or provision and different days may be so appointed for different  
purposes or different provisions. 15

## SCHEDULE

*Section 34*

### DEATHS REPORTABLE TO CORONER

“SECOND SCHEDULE DEATHS REPORTABLE TO CORONER	5
1. Any death that may be murder, manslaughter or infanticide.	
2. Any death that appears to be connected with a crime or suspected crime.	
3. Any death, whether or not accidental, caused wholly or partly by stabbing, drowning, poisoning, hanging, electrocution, asphyxia or a gunshot wound.	10
4. Any death where the deceased person is dead on arrival at a hospital.	
5. Any death which may be by suicide.	
6. Any death where the body of the deceased person is unidentified.	
7. Any death where no family member of the deceased person can be traced within a reasonable time of the death.	15
8. Any death where the body of the deceased person is found or recovered in circumstances that indicate that the death may have occurred a considerable period of time previously.	
9. Any death (other than in circumstances to which paragraph 8 applies) in respect of which the date of death may not be ascertainable.	20
10. Any death caused wholly or partly by any of the following:	
(a) an incident, whether or not accidental, resulting in any physical injury, including a cut, fracture or contusion;	
(b) a fall;	25
(c) self-neglect;	
(d) an eating disorder;	
(e) exposure or hypothermia;	
(f) burns.	
11. Any death which may be by assisted suicide.	30
12. Any death caused wholly or partly by any of the following:	
(a) an accident arising out of the use of a vehicle in a public place;	
(b) an incident occurring on a railway;	
(c) an incident arising on a train, aircraft, ship or other vessel.	35
13. Any death caused wholly or partly by any of the following:	

- (a) a notifiable disease or condition that is, under provisions in that behalf in any other enactment, required to be notified to a Minister of the Government, a Department of State or a statutory body or to an inspector or other officer of a Minister of the Government, a Department of State or a statutory body; 5
  - (b) an adverse reaction to any drug;
  - (c) a drugs overdose or the presence of toxic substances;
  - (d) in the case of an infant death, maternal drug addiction;
  - (e) an infection contracted as a result of previously contaminated blood product administration; 10
  - (f) a lack of care or neglect;
  - (g) starvation or malnutrition.
- 14. Any death which may be due to a prion disease.
- 15. Any death caused wholly or partly by an accident at work or due to industrial or occupational injury or disease. 15
- 16. Any death occurring in a hospital or other health institution—
  - (a) that is unexpected,
  - (b) within 24 hours of presentation or admission, whichever is the later, or
  - (c) of a person transferred from a nursing home. 20
- 17. Any maternal death or late maternal death.
- 18. Any death of a stillborn child, death intrapartum or infant death.
- 19. Any death occurring in a hospital or other health institution that is directly or indirectly related to a surgical operation or anaesthesia (including recovery from the effects of anaesthesia) or to any other medical, surgical or dental procedure, regardless of the length of time between the procedure and death. 25
- 20. Any death which may be due to any healthcare acquired infection.
- 21. Any death where an allegation is made or a concern has been expressed regarding the medical treatment provided to the deceased person or the management of his or her healthcare. 30
- 22. Any death which may be as a result of an unconventional medical procedure or treatment.
- 23. Any death occurring in—
  - (a) an institution for the care and treatment of persons with a physical or mental disability, or 35
  - (b) any public or private institution for the care of elderly or infirm persons, including a nursing home.



24. Any death where the deceased person was at the time of his or her death, or immediately before his or her death, in State custody or detention.
25. Any death of a child in care.”.

An Bille Cróinéirí (Leasú), 2018

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# BILLE

*(mar a ritheadh ag Dáil Éireann)*

*dá ngairtear*

Acht do leasú an Achta Cróinéirí, 1962 agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Ritheadh ag Dáil Éireann,  
15 Bealtaine, 2019*

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Coroners (Amendment) Bill 2018

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# BILL

*(as passed by Dáil Éireann)*

*entitled*

An Act to amend the Coroners Act 1962 and to provide for related matters.

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*Passed by Dáil Éireann,  
15th May, 2019*

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BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)  
nó trí aon díoltóir leabhar.

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DUBLIN  
PUBLISHED BY THE STATIONERY OFFICE  
To be purchased from  
GOVERNMENT PUBLICATIONS,  
52 ST. STEPHEN'S GREEN, DUBLIN 2.  
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)  
or through any bookseller.

€3.81

ISBN 978-1-4468-6478-4



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